

## CHAPTER 65

**AN ACT** establishing a permanent Interdistrict Public School Choice Program, supplementing chapter 36B of Title 18A of the New Jersey Statutes, and repealing parts of the statutory law.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.18A:36B-14 Short title.

1. This act shall be known and may be cited as the "Interdistrict Public School Choice Program Act."

C.18A:36B-15 Definitions relative to public school choice.

2. As used in this act:

"Choice district" means a public school district, established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, which is authorized under the interdistrict public school choice program to open a school or schools to students from sending districts;

"Commissioner" means the Commissioner of Education;

"Sending district" means the district of residence of a choice student.

C.18A:36B-16 Interdistrict public school choice program.

3. The Commissioner of Education shall establish an interdistrict public school choice program which shall provide for the creation of choice districts. A choice district may enroll students across district lines in designated schools of the choice district.

C.18A:36B-17 Application by district for choice program.

4. a. A proposed choice district shall submit an application to the commissioner no later than April 30 in the year prior to the school year in which the choice program will be implemented; except that for the first year of implementation of the program pursuant to P.L.2010, c.65 (C.18A:36B-14 et seq.), the application shall be submitted no later than the date specified by the commissioner. The application shall include, but not be limited to, the following information:

(1) a description of programs and schools and the number of student openings in each school identified by grade level which are available for selection;

(2) the provision for the creation of a parent information center;

(3) a description of the student application process and any criteria required for admission; and

(4) an analysis of the potential impact of the program on student population diversity in all potential participating districts and a plan for maintaining diversity in all potential participating districts, which plan shall not be used to supersede a court-ordered or administrative court-ordered desegregation plan.

The commissioner shall notify a choice district of the approval or disapproval of its application no later than July 30, and the reasons for disapproval shall be included in the notice; except that for the first year of implementation of the program pursuant to P.L.2010, c.65 (C.18A:36B-14 et seq.), notification shall be no later than the date specified by the commissioner.

The commissioner shall notify the State Board of Education of the approval of a choice district application and the State board shall include a public notice of the approval on the next agenda for its public monthly meeting.

b. The commissioner may take appropriate action, consistent with State and federal law, to provide that student population diversity in all districts participating in a choice district program is maintained. Student population diversity shall include, but not be limited to, the ethnic, racial, economic, and geographic diversity of a district's student population. The actions may include, but need not be limited to:

(1) directing a choice district to take appropriate steps to implement successfully the district's plan for maintaining student population diversity;

(2) restricting the number of choice students from a sending district or the authority of a choice district to accept choice students in the future; and

(3) revoking approval of the choice district. Any choice student who is attending a designated school in a choice district at the time of the commissioner's revocation of approval shall be entitled to continue to be enrolled in that school until graduation.

C.18A:36B-18 Evaluation of district's application.

5. The commissioner shall evaluate an application submitted by a proposed choice district according to the following criteria:

a. the fiscal impact on the district;

b. the quality and variety of academic programs offered within the district;

c. the potential effectiveness of the student application process and of the admissions criteria utilized;

d. the impact on student population diversity in the district; and

e. the degree to which the program will promote or reduce educational quality in the choice district and the sending districts.

C.18A:36B-19 Current choice districts unaffected.

6. Any choice district established by the commissioner prior to the effective date of P.L.2010, c.65 (C.18A:36B-14 et seq.) is authorized to continue operation as if the choice district had been approved pursuant to the provisions of P.L.2010, c.65 (C.18A:36B-14 et seq.).

C.18A:36B-20 Applications by student to choice district.

7. a. The parents or guardian of a student shall notify the sending district of the student's intention to participate in the choice program and shall submit an application to the choice district, indicating the school the student wishes to attend, no later than the date specified by the commissioner. To be eligible to participate in the program, a student shall be enrolled at the time of application in grades preschool through 12 in a school of the sending district and have attended school in the sending district for at least one full year immediately preceding enrollment in the choice district, provided that a "sending district" includes any school district that a student in a particular district of residence is required by law to attend. The one-year requirement shall not apply to a student enrolling in preschool or kindergarten in the choice district, if that student has a sibling enrolled in the choice district. Openings in a designated school of a choice district shall be on a space-available basis, and if more applications are received for a designated school than there are spaces available, a lottery shall be held to determine the selection of students. Preference for enrollment may be given to siblings of students who are enrolled in a designated school.

If there is an opening in a designated school of a choice district and there is no student who is enrolled in a sending district who meets the attendance requirements of this subsection, including a student who has been placed on a waiting list based on a lottery held

in the choice district, then the choice district may fill that opening with a public school student who does not meet the attendance requirements of this subsection or a nonpublic school student.

b. A choice district may evaluate a prospective student on the student's interest in the program offered by a designated school. The district shall not discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any basis prohibited by State or federal law.

c. A choice district shall not prohibit the enrollment of a student based upon a determination that the additional cost of educating the student would exceed the amount of additional State aid received as a result of the student's enrollment. A choice district may reject the application for enrollment of a student who has been classified as eligible for special education services pursuant to chapter 46 of Title 18A of the New Jersey Statutes if that student's individualized education program could not be implemented in the district, or if the enrollment of that student would require the district to fundamentally alter the nature of its educational program, or would create an undue financial or administrative burden on the district.

d. A student whose application is rejected by a choice district shall be provided with a reason for the rejection in the letter of notice. The appeal of a rejection notice may be made to the commissioner.

e. Once a student is enrolled in a designated school, the student shall not be required to reapply each school year for enrollment in any designated school of the choice district and shall continue to be permitted to be enrolled until graduation. A student shall be permitted to transfer back to a school of the sending district or may apply to a different choice district during the next application period.

f. A choice district shall accept all of the credits earned toward graduation by a student in the schools of the sending district.

g. A choice district shall notify a sending district upon the enrollment of a choice student resident in that district.

#### C.18A:36B-21 Enrollment restrictions.

8. a. (1) The school board of a sending district may adopt a resolution to restrict enrollment of its students in a choice district to a maximum of 10% of the number of students per grade level per year limited by any resolution adopted pursuant to this paragraph and 15% of the total number of students enrolled in the sending district, provided that the resolution shall be subject to approval by the commissioner upon a determination that the resolution is in the best interest of the district's students and that it will not adversely affect the district's programs, services, operations, or fiscal conditions, and that the resolution will not adversely affect or limit the diversity of the remainder of the student population in the district who do not participate in the choice program.

(2) Enrollment restriction percentages adopted by any resolution pursuant to paragraph (1) of this subsection shall not be compounded from year to year and shall be based upon the enrollment counts for the year preceding the sending district's initial year of participation in the choice program, except that in any year of the program in which there is an increase in enrollment, the percentage enrollment restriction may be applied to the increase and the result added to the preceding year's count of students eligible to attend a choice district. If there is a decrease in enrollment at any time during the duration of the program, the number of students eligible to attend a choice district shall be the number of students enrolled in the choice program in the initial year of the district's participation in the program, provided that

a student attending a choice district school shall be entitled to remain enrolled in that school until graduation.

(3) The calculation of the enrollment of a sending district shall be based on the enrollment count as reported on the Application for State School Aid in October preceding the school year during which the restriction on enrollment shall be applicable.

b. A choice district shall not be eligible to enroll students on a tuition basis pursuant to N.J.S.18A:38-3 while participating in the interdistrict public school choice program. Any student enrolled on a tuition basis prior to the establishment of the choice program shall be entitled to remain enrolled in the choice district as a choice student.

C.18A:36B-22 Provision of transportation, aid in-lieu-of transportation.

9. a. Transportation, or aid in-lieu-of transportation, shall be provided to an elementary school pupil who lives more than two miles from the choice district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the choice district school of attendance, provided the choice district school is not more than 20 miles from the residence of the pupil. Transportation, or aid in-lieu-of transportation, shall be the responsibility of the sending district. The choice district and the sending district may enter into a shared service agreement in accordance with the "Uniform Shared Services and Consolidation Act," sections 1 through 35 of P.L.2007, c.63 (C.40A:65-1 through C.40A:65-35).

b. Notwithstanding the provisions of section 20 of P.L.2007, c.260 (C.18A:7F-62) to the contrary, the sending district shall receive State aid for transportation calculated pursuant to section 15 of P.L.2007, c.260 (C.18A:7F-57) for a student transported or receiving aid-in-lieu-of transportation pursuant to subsection a. of this section.

C.18A:36B-23 Parent information center.

10. A choice district shall establish and maintain a parent information center. The center shall collect and disseminate information about participating programs and schools and shall assist parents and guardians in submitting applications for enrollment of students in an appropriate program and school. The information about participating programs and schools shall be posted on the choice district's website.

C.18A:36B-24 Annual report.

11. The commissioner shall annually report to the State Board of Education, the Legislature, and the Joint Committee on the Public Schools on the effectiveness of the interdistrict public school choice program. The commissioner's annual report shall be posted on the Department of Education's website and on the website of each choice district.

Repealer.

12. Sections 1 through 10 and 14 through 17 of P.L.1999, c.413 (C.18A:36B-1 through 18A:36B-13) are repealed.

13. This act shall take effect immediately.

Approved September 9, 2010.